



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GRETHER
DIRECTOR

VIA E-MAIL

TO: Members of the Michigan Legislature
FROM: C. Heidi Grether, Director
DATE: June 6, 2018
SUBJECT: Report on Hazardous Waste User Charges

In accordance with Subsections 11135(6) and 11153(8) of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, attached is the Department of Environmental Quality's (DEQ) 2017 Hazardous Waste User Charges Report.

If you need further information, please contact Jack Schinderle, Director, Waste Management and Radiological Protection Division, at 517-284-6852, or you may contact me at 517-284-6708.

Attachment

cc/att: Ellen Jeffries, Director, Senate Fiscal Agency
Mary Ann Cleary, Director, House Fiscal Agency
John Walsh, Director, State Budget Office
Darin Ackerman, Governor's Office
Angela Ayers, Governor's Office
Josh Sefton, Senate Fiscal Agency
Austin Scott, House Fiscal Agency
Jacques McNeely, State Budget Office
Jennifer Harrison, State Budget Office
Aaron Keatley, Chief Deputy Director, DEQ
Amy Epkey, Administration Deputy Director, DEQ
Sarah M. Howes, Legislative Liaison, DEQ
Jack Schinderle, DEQ
Steve Sliver, DEQ
Kathy Tetzlaff, DEQ
Allan Taylor, DEQ

DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS WASTE USER CHARGES REPORT FOR 2017

June 6, 2018

INTRODUCTION

The Department of Environmental Quality (DEQ) is federally authorized to administer Michigan's Hazardous Waste Program (HWP), under Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), in lieu of the federal HWP under the Resource Conservation and Recovery Act of 1976, as amended (RCRA). Part 111 of the NREPA requires the DEQ to evaluate the effectiveness and adequacy of the site identification (ID) number, manifest processing, and annual handler user charges collected as part of the Hazardous Waste User Charge (HWUC) system, relative to the overall revenue needs of the State of Michigan's HWP. The intent of this report is to evaluate the HWP in relation to the HWUC system and commence focus on future funding models.

HAZARDOUS WASTE PROGRAM

The HWP is a preventive program that protects human health and the environment by ensuring the proper identification, handling, tracking, transportation, treatment, storage, and disposal of hazardous waste in Michigan. The HWP requires waste characterization and classification, issuance of site ID numbers, manifest tracking of the waste from the point of generation to ultimate disposal, transportation, and licensing of treatment, storage, and disposal facilities (TSDF), all of which support the national "cradle-to-grave" HWP. Michigan has approximately 2,500 hazardous waste generators representing a variety of industries and manufacturing sectors, (e.g., automotive, chemical, pharmaceutical, glass, metal processing, furniture, leather, etc.), as well as universities, hospitals, dry cleaners, laboratories, vehicle and equipment maintenance and repair shops, printers, construction-demolition-renovation services, pesticide services, photo processing, wood preserving, transportation, remediation activities, etc. Michigan currently has 14 licensed hazardous waste TSDFs.

The HWP also oversees the following related acts:

- Part 121, Liquid Industrial By-Products, of the NREPA
- Part 167, Used Oil Recycling, of the NREPA
- Part 171, Battery Disposal, of the NREPA
- Hazardous Materials Transportation Act, 1998 PA 138

FUNDING

The HWP is supported by a federal grant from the United States Environmental Protection Agency (EPA) and the revenue in the Environmental Pollution and Prevention Fund (EPP Fund) that is generated by the HWUC system and the hazardous waste disposal fees. When fully funded, the program supports up to 44 full-time employees responsible for compliance assistance, licensing, closure/post closure, corrective action, site ID issuance, manifest processing, program authorization, technical reviews, inspections, reporting and oversight, and enforcement. The HWP is operating with significantly less than 44 full-time employees due to the current funding shortfall that has delayed the filling of vacancies created by retirements, job changes, etc.

The following shows the amounts received towards the fiscal year (FY) 2017 HWP budget from the site ID number user charges, manifest processing user charges, annual handler user charges, and hazardous waste disposal fees that were deposited into the EPP Fund:

FEE STRUCTURE

Revenue	2015	2017
Site ID Number Fees	\$90,132	\$29,204
Annual Manifest Charges	\$266,472	\$299,088
Handler Hazardous Waste User Charges	\$748,767	\$531,200
Hazardous Waste Disposal Fees	\$4,604,182	\$2,871,711
Total	\$5,709,553	\$3,731,203

Fee	Amount
Site ID Number User Charges	\$50 per site ID number issued
Manifest Processing User Charges	\$8 per manifest
Annual Handler User Charges	Small Quantity Generator - \$100 Large Quantity Generator - \$400 TSDF - \$2,000
Hazardous Waste Disposal Fees	Solidification - \$10/ton or cubic yard (or 4 cents/gallon or ½ cent/pound) Landfill Disposal - \$10/ton or cubic yard (or ½ cent/pound)

It should be noted that the HWUCs have steadily decreased over time due to less generation of hazardous wastes via waste minimization efforts, recycling, the universal waste category, conditionally exempt small quantity generator status, waste delisting approvals, etc. The following billing records show this trend:

Calendar Year	Number of Invoices	User Charges Billed
2003	5,876	\$1,214,682
2005	4,770	\$1,181,572
2007	4,599	\$1,089,724
2009	4,152	\$946,328
2011	3,398	\$841,852
2013	3,264	\$876,216
2015	3,005	\$835,092
2017	2,774	*\$830,288

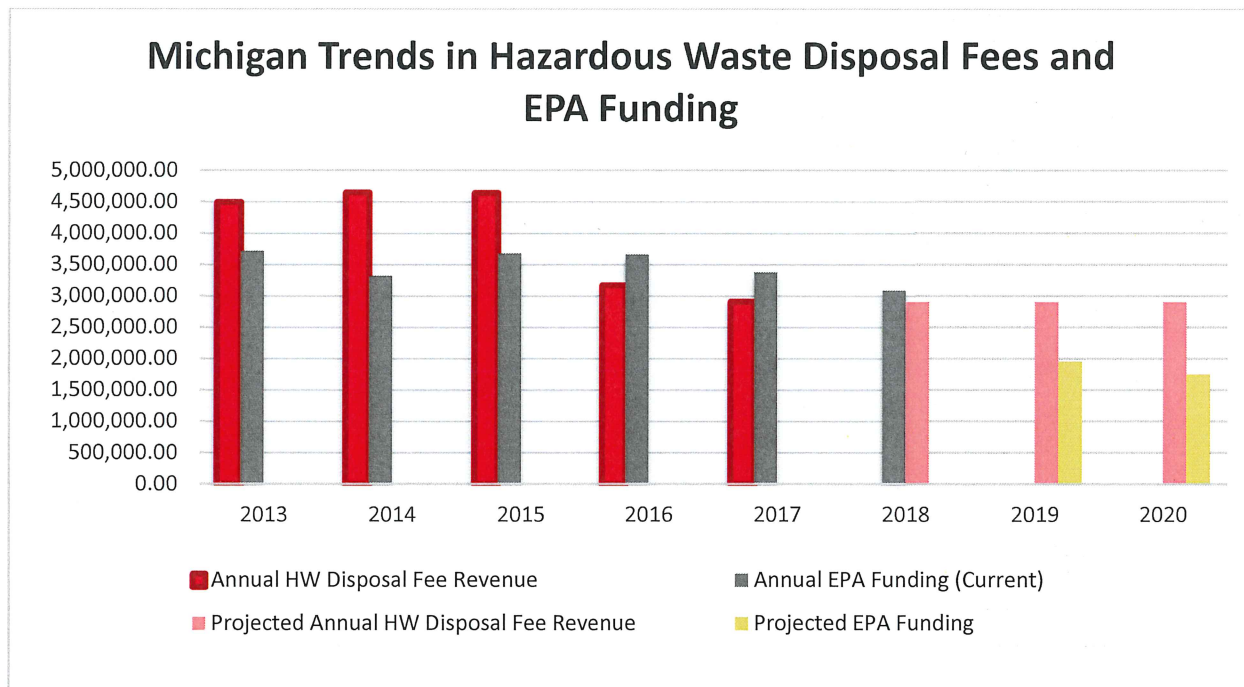
*User Charges Billed do not match revenue due to discrepancies in manifest count, revisions to generator status of the handlers, and late fees being assessed.

FUNDING TRENDS

While the current structure is a fair system for the identified handlers, and it does provide quality information that can be used by the regulated community, the DEQ, and the public, it no longer provides adequate revenue to fund the current HWP due to the following reasons:

- **Limitations of e-Manifest Fee** - The federal e-manifest system is going online in June of 2018. After this system is active, the DEQ will be pre-empted from collecting manifest processing user charges, eliminating approximately \$200,000 of revenue per year for the HWP.
- **Reduction in Federal Funding** - In 2017 the EPA began a phased reduction in the federal grant by over \$1.2 million, resulting in a 30 percent overall reduction in federal support by 2020, as compared to a 2016 baseline. It should also be noted that the FY 2019 Presidential Budget proposes an additional 30 percent cut in federal grant monies to the RCRA HWP.
- **Reduction in Fee Revenue** - The quantity of hazardous waste solidified and landfilled in the state has decreased and has reduced disposal fee revenue by over \$1.5 million annually.

The downward trend in funding from the EPA funding, and in solidification and landfill disposal fees, are shown graphically below. The effects of the proposed FY 2019 Presidential Budget cuts are also shown to illustrate a reasonable worst-case outcome.



PROGRAM ENHANCEMENTS AND EFFICIENCIES

The DEQ has implemented HWP efficiencies to improve services and control costs. These efforts are summarized below:

Implemented Environmental Advisory Rules Committee (ARC) Recommendations

The HWP has addressed the Environmental ARC's recommendations, including: the adoption of new federal amendments; expansion of the electronic biennial reporting system; streamlining of manifest processing; reevaluation and, in some cases, elimination of state-only hazardous waste listings; and convening a stakeholder workgroup to evaluate these proposed changes. These changes have resulted in HWP efficiencies to industry, environmental protection, and Michigan by providing electronic submittals for the national biennial report, less hazardous

waste generated, and direct adoption of federal requirements (note: under RCRA Subtitle C, the state requirements can only be equal to, or more stringent than, the federal requirements).

Part 121, Liquid Industrial By-Products, of the NREPA, was amended by 2015 PA 224, which changed the title and references from Liquid Industrial Wastes to Liquid Industrial By-Products (LIB); eliminated the requirement to use a uniform hazardous waste manifest as the shipping document by allowing alternate tracking options (e.g., other shipping documents, billing process, etc.); and eliminated mandatory site ID number issuance (i.e., it is optional). These LIB statutory changes decreased the site ID number revenue by \$60,000. These changes have reduced manifest sorting, processing, storage, some site ID number issuance, and reporting requirements to LIB, which had been equal to hazardous waste standards (although several entities are still opting to get a unique state/federal tracking number).

Part 111 Rule Revisions

The proposed Part 111 Rules, promulgated under Part 111 of the NREPA, address federal revisions that are required for the DEQ to maintain its authorization, as well as federal revisions that authorized states have the option of incorporating for consistency purposes. The proposed revisions will relate to the following federal subject areas: generator improvement rules, import/export of hazardous waste, and electronic manifest (e-manifest) system implementation. Additionally, the proposed rules address revisions based on DEQ and public recommendations. These revisions relate to the following subject areas: state-only hazardous waste listings, aerosol cans as a universal waste, updates to information associated with items adopted by reference in the rules, and typographical corrections. This rules package will represent the 12th amendment to the base program rules and is planned to be effective in late 2018.

Utilize Senior Environmental Employee Program (SEEP)

Michigan utilizes the federally-funded SEEP for cost-effective contract positions to assist with manifest processing, data entry, quality control screening, biennial report processing, and site ID number issuance/processing and as an assistant inspector. The HWP relies upon the SEEP contractors to accomplish the data management requirements of the HWUC process, processing manifests, and assisting with the biennial report.

Improved Public Participation

The HWP has expanded its public participation process to include the Environmental Justice (EJ) review protocols (e.g., utilizing EJ screening tools, language translation services, etc.). For most projects, public hearings/meetings are recorded and posted on the DEQ Web site, via YouTube, so they can be accessed by anyone, at any time, during the public comment period (versus being available only the night of the hearing/meeting). Licensing and contact information is also routinely posted on appropriate municipality Web sites, which is in addition to what the administrative rules require.

SUMMARY

The HWP continues to implement and look for additional efficiencies to decrease program costs without impacting the core mission. Current and projected levels of funding are not adequate to maintain the program. The significant decrease in federal funding combined with decreases in revenue from hazardous waste reduction fees and the loss of manifest revenue indicate that other funding options need to be pursued. The DEQ is currently coordinating with stakeholders to explore future funding model(s) for proposal to the Legislature.